IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 10136 of 2004

Between:

1 Papineni Ramaiah W/o. Yellaiah
R/o. New 3/189(3-178) Duvvuru Mandal, Duvvuru Village,
Kadapa District.
2 Chilamakuri Parama Sivaiah S/o. Guravaiah
D.No. New 2/250(22/177) Duvvuru Mandal, Duvvuru Village,
Kadapa District.
3 Chilamakuri V.V. Swamy S/o. Siaiah
D.NO. New 6/118, (5/106) Duvvuru Mandal, Duvvuru Village,
Kadapa District.
4 A. Subba Ratnamma W/o. Chinna Subba Rayudu
D.No. New 6/201, (5/206)and D.No. New 3/103(3/1) Duvvuru

Mandal, Duvvuru Village, Kadapa District.
5 P. Chinna Pullaiah S/o. Guravaiah
D.No. New 7/58 (6/63) Duvvuru Mandal, Duvvuru Village,
Kadapa District.
6 P. Narendranath S/o. Chinnapullaiah
R/o. H.No. New 7/232(6/228)and D.No. New7/233(6/229)

Duvvuru Mandal, Duvvuru Village, Kadapa District.

7 M. Sreenivasulu S/o. Subba Rayudu,
H.No. New7/231(6/227), and D.No. New 8/6(7/7) Duvvuru

Mandal, Duvvuru Village, Kadapa District.
8 M. Subba Rayudu S/o. Venkata Subbaiah
H.No. New 7/242 (6/221) Duvvuru Mandal, Duvvuru Village,
Kadapa District.
9 Lingam Lakshman Kumar S/o. Rama Swamy
D.No. New 2/252(2/179) Duvvuru Mandal, Duvvuru Village,
Kadapa District.
10 Lingam Ramabhupal S/o. Ramaiah
H.No. New2/253(2/179) Duvvuru Mandal, Duvvuru Village,
Kadapa District.
11 Y. Rama Krishna S/o. Eswaraiah,

D.No. New 6/125(6/123) Duvvuru Mandal, Duvvuru Village,
Kadapa District.

12 Papineni Ramakrishna S/o. Yellaiah
D.No.3/188. Duvvuru Mandal, Duvvuru Village,
Kadapa District.

13 S. Venkata Subbamma W/o. Gurrappa @ Guravaiah
Fr. New 3/187(3/62) Duvvuru Mandal, Duvvuru Village,
Kadapa District.

..... PETITIONER(S)

AND

1. The Superintending Engineer R&B, (National Highways)

Ongole, Prakasam District.

2 Executive Engineer, R&B, (National Highways), Kadapa,

Kadapa District.

3 Dy. Executive Engineer, R&B (N.H.) Kadapa, Kadapa

District.

4 Mandal Revenue Officer, Duvvuru Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate Writ, Order or Direction directing the respondents not to demolish the houses bearing Nos. 3/189 (old3-178; 2/250(old2/177); 6-118(old5/106); 6/201(old5/206); 3/103(old3/1); 7/58(lold6/63); 7/232 (old 6/228); 7/233 (old 6/229); 7/231 (old 6/227); 8/6 (old 7/7); 7/242 old 6/221); 2/252 (old 2/179); 2/253 (old 2/180); 6/125 (old 6/123); 3/188; 3/187 (old 3/62) belonging to the petitioners situate in Duvvuru village, Duvvuru Mandal, Kadapa District, by declaring the action of the Respondents in demolishing the structures without following due process of law as arbitrary, illegal and unconstitutional.

Counsel for the Petitioners:MR.T.NAGARJUNA REDDY

Counsel for the Respondents: MR.S.NIRANJAN REDDY

The Court made the following O R D E R:

This writ petition is filed by the petitioners, numbering 13, with a prayer to issue a Writ of Mandamus or any other appropriate writ, order or direction directing the respondents not to demolish the houses belonging to the petitioners respectively situated in Duvvuru village, Duvvuru Mandal, Kadapa District, and declaring the action of the respondents in demolishing the structures without following due process of law as illegal, arbitrary and unconstitutional.

The 1st petitioner has given his sworn affidavit in support of the writ petition. It is averred in the writ petition that the petitioners have constructed houses and concerned Gram Panchayat has assigned door numbers also. In para 8 of the affidavit, door numbers have been detailed. The issue involved in this writ petition is squarely covered by the judgment of Division Bench in **P.LAKSHMANA RAO V. EXECUTIVE OFFICER**.

Accordingly, the writ petition is disposed of directing the respondents to follow the directions issued in P.Lakshmana Rao's case, which read as under:

> "If the authorities viz., the Mandal Revenue Officer, Revenue Divisional Officer, Executive Officer of local authority want to take any action of eviction, dispossession or demolition, first they shall

issue a notice to the occupant/s calling upon him/them to show cause as to why the proposed action shall not be taken. In receipt of such objections or explanation, if there is any objection as to the ownership of the property, the Mandal Revenue Officer or other authorities concerned shall determine the extent of encroachment or unauthorized occupation and shall determine whether the property in question belongs to the Government or any other local self Government authority or to the occupant/s. In case of demolition of the private property, the Mandal Revenue officer or other authorities concerned shall determine the loss cause to the occupant/s on the basis of the assessment to be made by the Engineer of Roads and Buildings Department. On such assessment of damages, the Mandal Revenue Officer or the concerned authority shall take appropriate steps to disburse the amount qualified forthwith. If the demolition took place is in respect of the property of the Government, the question of payment of damages will not arise. The occupant/s is/are entitled to remove the material used for the construction. The Mandal Revenue Officer shall issue a notice within 60 days from the date of receipt of a copy of this order calling upon the claimant/occupant/s to show cause as to why the action proposed shall not be taken by giving 60 days time to file the objections, if any. The person interested viz., the occupant/s shall submit him/their objections or explanation within the time stipulated together with any other documents he/they would like to rely upon in support of his/their case. On receipt of such explanation/objections and documents, if any, the Mandal Revenue Officer or other concerned authority shall consider the same, if necessary, by giving an oral hearing and then pass appropriate orders within three months thereafter. In case of any enquiry, the same should be conducted in a summary way and the occupant/s shall produce all the evidence which he/they wants/want to rely upon before the Mandal Revenue Officer on the appointed day.

If there is any claim for grant or assignment of the property, the concerned officer shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of the occupant/s. In cases of demolition, the loss caused shall have to be assessed by the Engineer of the area concerned, who, before assessing, shall visit the premises along with the Officer concerned and the occupant/s or the person/s interest on the date notified by the concerned officer. The occupant/s shall appear before the concerned authority on all the dates in order to complete the enquiry at an early date. Till the conclusion of the enquiry by the Mandal Revenue Officer, status-quo obtaining as on today shall continue."

No order as to costs.

_____

07.06.2005

usd

To

1. The Superintending Engineer R&B, (National Highways)

Ongole, Prakasam District.

2 Executive Engineer, R&B, (National Highways), Kadapa,

Kadapa District.

3 Dy. Executive Engineer, R&B (N.H.) Kadapa, Kadapa

District.

4 Mandal Revenue Officer, Duvvuru Mandal, Kadapa District.

5. 2 CD copies

6 1 CC to MR.NAGARJUNA REDDY